

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MONTANA - BUTTE DIVISION

3
4 JOHN MEYER,
5 Plaintiff,
6
7 vs. Cause No. 2:18-CV-0002-BMM
8
9 BIG SKY RESORT,
10
11 Defendant.

12
13 DEPOSITION UPON ORAL EXAMINATION OF
14 MIKE UNRUH

15
16 BE IT REMEMBERED, that the videotaped
17 deposition upon oral examination of Mike Unruh,
18 appearing at the instance of Plaintiff was taken at
19 the law offices of Crowley Fleck PLLP, 1915 South
20 19th Avenue, Bozeman, Montana 59715, on Wednesday,
21 February 19, 2020, beginning at the hour of
22 8:56 a.m., pursuant to the Montana Rules of Civil
23 Procedure, before Kim Marchwick, RPR, CRR, Court
24 Reporter - Notary Public.
25

1 APPEARANCES
2

3 ATTORNEY APPEARING ON BEHALF OF THE
4 PLAINTIFF, JOHN MEYER:

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10 ATTORNEY APPEARING ON BEHALF OF THE
11 DEFENDANT, BIG SKY RESORT:

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18 Also present: Mac Morris, Esq.
19 Tom Marshall
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1	I N D E X		
2	EXAMINATION OF MIKE UNRUH	BY	PAGE
3	Ms. Walas.....		5
4	Mr. McIntosh.....		44
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6	E X H I B I T S		
7			
8	Deposition Exhibit No. 84		22
9	Copy of Deposition Exhibit 25		
10	Deposition Exhibit No. 85		30
11	Exhibit 13 with orange markings		
12	Deposition Exhibit No. 86		33
13	Incident Report		
14	Deposition Exhibit No. 87		35
15	Incident Report dated 3-6-11		
16	Deposition Exhibit No. 88		42
17	Incident Report dated 3-20-15		
18			
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1 WHEREUPON, the following proceedings were had
2 and testimony taken, to-wit:

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4 * * * * *

5
6 VIDEOGRAPHER: Let the record show that this
7 is the time and place designated of the videotape
8 deposition of Mike Unruh in the matter of
9 John Meyer versus Big Sky Resort in the United
10 States District Court for the District of Montana,
11 Butte division, Cause No. 2 18 CV-0002-BMM.

12 The date today is February 19, 2020. Time on
13 the monitor is 8:56 a.m. My name is Wade Larson,
14 I'll be operating the camera today. The court
15 reporter is Kim Marchwick. And I now ask that
16 counsel voice identify themselves and state whom
17 they represent.

18 MS. WALAS: Breann Walas for the Plaintiff.

19 MR. McINTOSH: Ian McIntosh. And with me
20 today is Mac Morris and Tom Marshall as the
21 corporate representative.

22 VIDEOGRAPHER: Would the court reporter
23 please swear in the witness.

24 MIKE UNRUH,
25 called as a witness by the Plaintiff, having been

1 first duly sworn, testified as follows:

2 EXAMINATION

3 BY MS. WALAS:

4 Q. Good morning.

5 A. Good morning.

6 Q. Will you go ahead and state your name
7 for the record.

8 A. Mike Unruh.

9 Q. Okay. And where do you work?

10 A. I work with Big Sky and Boyne Resorts.

11 Q. Okay. And what is your title at -- is
12 it just Big Sky and Boyne Resorts or is it two
13 separate entities?

14 A. I now am Boyne Resorts, which
15 encompasses many different ski resorts.

16 Q. Is Boyne within the, I guess, you said
17 "group"?

18 A. Yes.

19 Q. Okay. And what is your title at Boyne
20 Mountains?

21 A. With Boyne Resorts I am the Senior Vice
22 President of Mountain Operations.

23 Q. And did you previously work at Big Sky
24 Resort?

25 A. I did.

1 Q. And what was your title there?

2 A. The title I finished my tenure there was
3 Vice President of Mountain Operations.

4 Q. And how long have you worked for either
5 Boyne Resorts or the Big Sky Resort?

6 A. Since September of 2007.

7 Q. And are you aware today that the
8 testimony you're giving is as a representative of
9 Big Sky?

10 A. I am.

11 Q. And are you giving any testimony today
12 on behalf of Boyne Resorts?

13 A. No.

14 MR. MCINTOSH: Objection, vague.

15 Q. (By Ms. Walas) And are you aware that
16 you have been identified as a non-retained expert
17 in this case?

18 A. I believe that's my understanding, yes;
19 corporate representative is my understanding.

20 Q. Okay. And I've handed you earlier what
21 was marked as Exhibit 79. Are you familiar with
22 that document?

23 A. Yes.

24 Q. And that's the Second Amended 30(b)(6)
25 Deposition Notice?

1 A. That's correct.

2 Q. And would you agree that there is a list
3 of topics on page 2?

4 A. Yes.

5 Q. And that flows over into the next page?

6 A. It does.

7 Q. Going back to page 2, let's take a look
8 at them. Are you prepared to discuss John Meyer's
9 ski wreck and injuries on December 11, 2015, at Big
10 Sky Resort?

11 A. To the extent of the items which we have
12 not objected, yes.

13 Q. And so you're aware that some objections
14 to that topic have been raised?

15 A. I had attended several of the
16 depositions and, therefore, I'm aware that
17 objections have been raised.

18 Q. Okay. The main -- are you prepared to
19 discuss the maintenance operation and patrolling of
20 the trails and terrain in the Challenger area at
21 Big Sky Resort from December 1st to
22 December 11, 2015?

23 A. Same answer as I have explained with
24 answer one, yes.

25 Q. Okay. And are you prepared to discuss

1 Topic 3 the maintenance of the trails and terrain
2 in the Bermuda Triangle of Big Sky Resort from
3 December 1 through 11 of 2015?

4 A. Similar to answers one and two, yes.

5 Q. And what's your understanding of what
6 the Bermuda Triangle is at Big Sky?

7 A. The Bermuda Triangle is a non-maintained
8 natural area that is generally confined by Lower
9 Morning Star, the area below Highway and St. Alfons
10 Trees.

11 Q. And just to be clarify St. Alfons Trees,
12 those are just natural trees in the area or is that
13 the name of a trail?

14 A. That's correct.

15 Q. And looking at Topic 4 are you prepared
16 to discuss the visibility of the transition from
17 Highway to Loop Road from the Challenger ski lift
18 on December 11, 2015?

19 A. I am.

20 Q. And are you prepared to discuss Topic 5,
21 the accident investigation of John Meyer's
22 2011/2015 (sic) wreck including the incident report
23 that was produced by Big Sky?

24 A. I am.

25 Q. And Topic 6, are you prepared to discuss

1 prior skiing or snowboarding accidents in the
2 Highway, Loop Road, and Lower Morning Star section
3 of the mountain during the 2015 to '16 ski seasons
4 and the four seasons prior?

5 A. I am.

6 Q. And are you aware that incident reports
7 have been produced from after the 2015 ski wreck
8 that John Meyer had?

9 A. Yes.

10 Q. And are you prepared to discuss those
11 incident reports?

12 MR. MCINTOSH: Objection. Beyond the scope
13 of the deposition notice.

14 THE WITNESS: Those which have not been
15 previously been objected to, yes.

16 Q. (By Ms. Walas) And we're on No. 7, I
17 believe. Are you prepared to discuss the factual
18 basis of the affirmative defenses raised in Big
19 Sky's Answer with the exception of the abuse of
20 process defense?

21 A. Correct.

22 Q. And are you prepared to discuss Topic 8
23 which covers Big Sky's corporate policies for
24 safety maintenance and operation of the trails
25 during the 2015-'16 ski season and the four seasons

1 prior?

2 A. I am.

3 Q. And Topic 9, are you prepared to discuss
4 Big Sky's corporate policies regarding ski patrol
5 and investigation team -- accident investigation
6 team training, reporting and operations for 2015 to
7 '16 and the four years prior?

8 MR. MCINTOSH: And I'll just object that, on
9 our topic, as we communicated in our objections
10 there may be privileged material that Mr. Unruh
11 will not be able to testify about. But go ahead.

12 THE WITNESS: Yes. To the extent that it
13 does not delve into privileged information, yes.

14 Q. (By Ms. Walas) And to be clear on the
15 record your understanding of privileged information
16 covers what type of topic?

17 MR. MCINTOSH: Objection, calls for a legal
18 conclusion.

19 THE WITNESS: My general understanding of
20 that as a lay person is conversations that Big Sky
21 has had with its legal representatives.

22 Q. (By Ms. Walas) And is -- what did you
23 do to prepare for your deposition today?

24 A. I've reviewed documents that have been
25 produced in response to this, this 30(b) (6)

1 document. Like I mentioned, I have been present at
2 all but one of the depositions, I believe. And I
3 have generally followed along this case since it
4 occurred.

5 Q. Okay. And can you identify the
6 documents that you reviewed for today?

7 A. Not in their entirety; but they include
8 the accident investigation, they include reviewing
9 the expert witness for Big Sky's product, it
10 includes the ski patrol manuals, some of the
11 accident cards that have been produced, things like
12 that.

13 Q. And you said that you attended some
14 depositions; whose depositions did you attend?

15 A. I have attended John Meyer's,
16 Amanda Eggert, Evi Dixon, Bob Dixon,
17 Taylor Middleton to the best of my recollection.

18 Q. And are there any deposition transcripts
19 that you have reviewed that you weren't present at?

20 A. Yes.

21 Q. Which one was that?

22 A. Mr. McMacken.

23 Q. And did you review the deposition
24 transcripts for the ones that you attended in
25 preparation for today?

1 A. Not immediately prior to this, but I
2 have reviewed parts of all of them.

3 Q. And besides Big Sky's attorney have you
4 met with any Big Sky employees to prepare for your
5 deposition today?

6 A. Not to prepare for the deposition, no.

7 Q. Have you met with any -- again,
8 excluding Big Sky's attorneys, have you met with
9 any Big Sky employees to discuss this case?

10 A. I have had conversations with different
11 leadership members of Big Sky as well as my direct
12 supervisors.

13 Q. Can you identify by name the leadership
14 supervisors that you discussed this with?

15 A. I had conversations regarding the case
16 with Taylor Middleton, Ryan Ayres, Dave Benes,
17 Stephen Kircher, Tom Marshall at a high level,
18 Rick Kelley with Boyne, and John McGregor with
19 Boyne.

20 Q. And I believe you said you discussed
21 this case with your direct supervisors?

22 A. That would be Steve Kircher,
23 Rick Kelley, John McGregor.

24 Q. And have you ever met with John Meyer to
25 discuss his injuries?

1 A. I have not; not personally.

2 Q. And was John Meyer injured while skiing
3 at Big Sky?

4 A. He was.

5 Q. And what is Big Sky's understanding of
6 his injuries?

7 MR. MCINTOSH: Object on foundation. Go
8 ahead.

9 THE WITNESS: It's my understanding that
10 Mr. Meyer was skiing the Highway Trail off of
11 Challenger, which is an expert trail. It's my
12 understanding that by his own admission he was
13 skiing fast as he, quote, "always does" and from
14 another witness that he was, quote, "bombing the
15 run" and that he failed to safely negotiate a
16 variation in terrain and fell becoming injured.

17 Q. (By Ms. Walas) And where did
18 John Meyer's ski wreck occur on the mountain?

19 A. His point of rest was Bermuda Triangle.

20 Q. And is Big Sky aware of how Mr. Meyer
21 got to the Bermuda Triangle?

22 A. Mr. Meyer states that he skied the
23 Highway Trail, and in order for him to have the
24 point of rest that he did that's the only logical
25 conclusion that aligns well with his testimony and

1 that of witnesses in the case.

2 Q. And did Big Sky do an investigation into
3 John Meyer's ski wreck?

4 A. Yes.

5 Q. And is that investigation part of Big
6 Sky's normal course of operations?

7 MR. MCINTOSH: Objection, calls for a legal
8 conclusion. Go ahead.

9 THE WITNESS: Generally speaking when Big Sky
10 identifies a serious incident that may have more
11 serious injuries, yes an accident investigation
12 will be performed.

13 Q. (By Ms. Walas) And did Big Sky prepare
14 an incident report for John Meyer's ski wreck?

15 A. The incident report and the accident
16 investigation are somewhat synonymous.

17 Q. And can you see the transition from
18 Highway to Loop Road where this ski wreck occurred
19 from the Challenger ski lift?

20 A. Absolutely; it's open and obvious.

21 Q. And where is the Challenger ski lift
22 from -- in relation to where this wreck occurred?

23 A. Can you define your question a little
24 bit more?

25 Q. We might come back to it.

1 A. Okay.

2 Q. How does Big Sky describe the transition
3 from Upper Highway to the Loop Road?

4 MR. MCINTOSH: Objection, vague. Go ahead.

5 THE WITNESS: It is a non-abrupt transition
6 not unlike multiple transitions contained within
7 the trail above it.

8 Q. (By Ms. Walas) And you said you
9 attended Amanda Eggert's deposition?

10 A. I did.

11 Q. And are you aware that she described the
12 transition from Upper Highway to the Loop Road as
13 abrupt?

14 MR. MCINTOSH: Objection. One, testimony
15 speaks for itself; two, it's hearsay.

16 THE WITNESS: I don't specifically recall
17 that, no.

18 Q. (By Ms. Walas) And the transition to
19 the Loop Road can you see that from Upper Highway?

20 A. Define "upper highway" please; there is
21 no trail named "upper highway".

22 Q. Throughout the litigation people have
23 been referring to the part above Loop Road as Upper
24 Highway, but for purposes of clarification can you
25 see the transition from the Highway Trail to Loop

1 Road?

2 MR. McINTOSH: I'm going to object to the
3 extent that it misstates the record. Go ahead.

4 THE WITNESS: You can see the transition onto
5 the trail from above.

6 Q. (By Ms. Walas) Okay. Now, are you
7 aware that some photos have been produced in this
8 case by Big Sky?

9 A. I am.

10 Q. And do you know who took the photos that
11 were produced?

12 MR. McINTOSH: Objection, compound.

13 THE WITNESS: Can you restate your question?

14 Q. (By Ms. Walas) Do you know who took the
15 photos?

16 MR. McINTOSH: Same objection.

17 THE WITNESS: Which photos?

18 Q. (By Ms. Walas) The photos that Big Sky
19 has produced in this litigation that you testified
20 you know have been produced.

21 MR. McINTOSH: Same objection, compound.

22 THE WITNESS: Many photos have been produced,
23 and those photos have been taken by more than one
24 individual.

25 Q. (By Ms. Walas) Okay. Do you know if

1 the photos that were produced were all taken by Big
2 Sky employees?

3 A. I believe that's correct.

4 Q. Okay. I'm going to hand you what's been
5 previously marked as Exhibit 12, and are you
6 familiar with this photo?

7 A. I'm familiar with the location.

8 Q. And where is that location?

9 A. This appears to be on what I would call
10 Lower Morning Star Road above the natural halfpipe.

11 Q. Did you say halfpipe?

12 A. Above the natural halfpipe.

13 Q. Okay. And do you know who took this
14 Photo No. 12?

15 A. Not with certainty, no.

16 Q. Do you know when that photo was taken?

17 A. I believe that this is a photo that I
18 personally took the following day.

19 Q. Okay.

20 A. But, again, I can't with absolute
21 certainty tell you unless you showed me when this
22 was produced.

23 Q. Okay. And what did you say the name of
24 this trail was in the photo?

25 A. I personally would call this Lower

1 Morning -- or excuse me Lower Morning Star Road.

2 Q. Okay. And when you say "Lower Morning
3 Star Road" are you referring to this flat area that
4 looks to go across the mountain?

5 A. That's correct.

6 Q. Okay. And to what I would consider the
7 left or uphill from that trail, what is the name of
8 that area of the mountain or trail?

9 A. That area is not named.

10 Q. It's not named. Okay. Is it considered
11 part of Morning Star or Lower Morning Star?

12 A. Not in my opinion, no.

13 Q. And at the end of Lower Morning Star
14 what's the name of that area of the mountain?

15 MR. MCINTOSH: Objection, vague.

16 THE WITNESS: Yeah, can you...

17 Q. (By Ms. Walas) If you look at the photo
18 the trail seems to go across the mountain, correct?

19 A. The cat track goes across the mountain,
20 correct.

21 Q. Okay. Is that cat track Lower Morning
22 Star?

23 A. That's my name that I would use for it,
24 correct.

25 Q. Okay. And it looks like in the photo

1 that it goes into the side of another trail. Does
2 that have a -- does trail at the end of that in the
3 photo have a name?

4 MR. MCINTOSH: Objection, misstates the
5 evidence.

6 THE WITNESS: I do not understand your
7 question.

8 Q. (By Ms. Walas) Okay. Where does Lower
9 Morning Star lead to?

10 A. Lower Morning -- can you -- I'm not sure
11 the question there is -- Lower Morning Star as a
12 trail itself is not in my opinion visible in this
13 picture.

14 Q. So I -- my understanding is that you
15 identified that cat track as Lower Morning Star; is
16 that correct?

17 A. Road.

18 Q. Morning Star Road. Okay. Lower Morning
19 Star Road is different than Lower Morning Star
20 Trail?

21 A. Correct.

22 Q. Okay. Can you just explain the
23 difference to me.

24 A. They're two different trails.

25 Q. What's the purpose of Lower Morning Star

1 Road?

2 A. To --

3 MR. MCINTOSH: Objection, vague. Go ahead.

4 Q. (By Ms. Walas) I'll rephrase that.

5 A. Yeah, please.

6 Q. What is Lower Morning Star Road used
7 for?

8 MR. MCINTOSH: Also vague.

9 THE WITNESS: Yeah, can you -- it has
10 multiple uses.

11 Q. (By Ms. Walas) Okay. So what are those
12 multiple uses?

13 A. Skiers can use it to traverse the
14 mountain from one area to the next, snow cats and
15 other equipment can also use it to traverse the
16 mountain.

17 Q. And is Lower Morning Star Road -- where
18 does that -- what area of the mountain does that
19 lead you to?

20 A. Can you be more specific there?

21 Q. I'm trying to figure out where Lower
22 Morning Star Road goes from this photo?

23 A. The most basic answer is it goes
24 downhill or towards the north, and it traverses
25 Lower Morning Star, and then eventually traverses

1 across the bottom of Highway Trail.

2 Q. Okay. And is Lower Morning Star Road
3 that we see in this photo, is that the same as Loop
4 Road?

5 A. It can sometimes be referred to as the
6 same. In my vernacular, no.

7 Q. I have what has been marked as Exhibit
8 25. And are you familiar with this photograph?

9 A. I am.

10 Q. And do you know who took the photo?

11 A. I believe this is also a photo that I
12 took the day after Mr. Meyer's incident.

13 Q. And where on the mountain is this photo
14 that -- strike that. That's a horrible question.

15 Describe the area shown in this photo.

16 A. This photo was taken while standing on
17 the Highway Trail looking downhill.

18 Q. And do you recall how far up the hill
19 you were from the Loop Road when you took this
20 photo?

21 A. I did not measure it.

22 Q. And looking at Exhibit 25 on the right
23 side of the photo, is there a difference in the
24 elevation of the terrain?

25 A. Can you define your answer -- or your

1 question a little more? This is obviously a
2 downward slope so there's an elevation change the
3 whole distance.

4 Q. Okay. Over here to the -- on the right
5 side of the photo, there appears to be a -- what I
6 would describe as a bowl where the trail goes down.
7 Do you see that on the photo?

8 A. I see that, yes.

9 Q. And what part of the trail is that on,
10 the bowl area?

11 A. I would call that the skier's right side
12 of Highway.

13 Q. But it's still on Highway?

14 A. I would call it on Highway, yes.

15 Q. I'm going to show you what I'll mark as
16 84.

17 (Whereupon, Deposition Exhibit No. 84
18 was marked for identification.)

19 MR. McINTOSH: So it's just a copy of 25.

20 MS. WALAS: (Nod of head.)

21 MR. McINTOSH: Got it. Thank you.

22 Q. (By Ms. Walas) Here is 84, and
23 comparing that to number 25 is it the same photo?

24 A. The print looks different, meaning the
25 color looks darker, but everything within the

1 picture appears to be the same.

2 Q. And in Exhibit 84, is that the area of
3 the mountain where John Meyer's wreck occurred?

4 A. Can you be more specific in your
5 question? What part of the picture?

6 Q. What area of the mountain did
7 John Meyer's ski wreck take place in?

8 A. Mr. Meyer can't articulate exactly where
9 he crashed, but his point of rest was in the
10 Bermuda Triangle visible in this picture, and the
11 witness, Mr. McMacken, has stated that he was
12 bombing down Highway.

13 Q. Okay.

14 A. Both of which are in this picture.

15 Q. Okay. And I'm going to hand you that
16 orange marker. On Exhibit 84 can you mark the
17 route that Big Sky believes Mr. Meyer took while he
18 was skiing Highway into his point of rest?

19 MR. MCINTOSH: Objection; speculation,
20 foundation, lack of personal knowledge.

21 THE WITNESS: I can't. I believe I can mark
22 his point of rest.

23 Q. (By Ms. Walas) Okay. So Big Sky has no
24 knowledge of how John Meyer skied down Highway?

25 MR. MCINTOSH: Objection; misstates the prior

1 testimony.

2 THE WITNESS: Big Sky has knowledge from
3 witnesses, and that is our understanding of how he
4 came to his point of rest.

5 Q. (By Ms. Walas) Does Big Sky know the
6 route that John Meyer skied on the day of his
7 accident after he got off the Challenger lift?

8 A. Which time? He rode the lift multiple
9 times.

10 Q. Does Big Sky know the route that
11 John Meyer took after getting off the Challenger
12 lift immediately before his ski wreck?

13 MR. McINTOSH: Objection; vague, foundation.

14 THE WITNESS: Can you restate the question?

15 Q. (By Ms. Walas) Does Big Sky know the
16 route that John Meyer took off the Challenger ski
17 lift until his point of rest after his ski wreck?

18 MR. McINTOSH: Same objection.

19 THE WITNESS: From witness testimony
20 Amanda Eggert, Mr. McMacken, and Mr. Meyer, it's my
21 understanding that he skied Highway then came to
22 rest in Bermuda Triangle.

23 Q. (By Ms. Walas) Okay. And can you mark
24 the point of rest after John Meyer's ski wreck on
25 that photo?

1 A. I can generally mark it. I'm not sure I
2 can mark it with pinpoint accuracy in this picture.

3 Q. Will you circle what Big Sky understands
4 to be John Meyer's point of rest.

5 A. It doesn't show well in this picture
6 from this distance, so that's difficult, and I'm
7 not sure I can do it with enough accuracy in this
8 picture to feel comfortable with doing so. If you
9 have a closer picture I'd be happy to do that.

10 Q. We'll just leave that blank then for
11 now.

12 A. Okay.

13 Q. Now, looking at Exhibit 25, how would
14 you describe the terrain in that area of the
15 mountain?

16 A. Which part of the picture would you like
17 me to describe.

18 Q. The entire photograph?

19 MR. MCINTOSH: Objection; too broad. Go
20 ahead.

21 THE WITNESS: Well, directly below the
22 photographer is the Highway Trail with clear and
23 obvious or at least seasoned conditions
24 characterized by vegetation popping up through the
25 snow, some unconsolidated snow, some small -- some

1 moguls, Lower Morning Star Road or the cat track
2 plainly and obviously crossing the trail.

3 Below that is the Bermuda Triangle again with
4 trees exposed, vegetation, and different natural
5 conditions and then beyond that still is Lower
6 Morning Star Trail. There are three skiers clearly
7 obvious on the Lower Morning Star Road or the Loop
8 Road as some people call it, and there are three
9 skiers clearly obvious on Lower Morning Star Trail
10 itself.

11 Q. (By Ms. Walas) And is the cat track or
12 road that we see in Exhibit 25 the Lower Morning
13 Star Road that you were discussing in Exhibit 12?

14 A. It is a continuation of that, yes.

15 Q. And I believe you identified three
16 skiers on the Loop Road in No. 25?

17 A. Correct.

18 Q. And looking at where those skiers are
19 standing, does it appear to be a drop off from the
20 top of Upper Highway to the Loop Road?

21 A. There is an obvious variation in
22 terrain. I would not characterize it as a drop
23 off.

24 Q. And Deposition Exhibit 25, is that
25 representative of how the terrain was on

1 December 11, 2015?

2 A. Yes.

3 Q. And is the -- No. 12 representative of
4 the terrain on December 11, 2015?

5 A. Yes.

6 Q. And do you know if the Loop Road was
7 groomed after Mr. Meyer's December 11, 2015 ski
8 wreck?

9 MR. MCINTOSH: Objection. Vague as to time.

10 THE WITNESS: Yes, can you be more specific,
11 please.

12 Q. (By Ms. Walas) Do you know if the Loop
13 Road was groomed between December 11th, the date of
14 the wreck, and the next day when you took these
15 photos?

16 A. I do not know.

17 Q. And do you know if the transition from
18 Highway to the Loop Road was changed between
19 December 11th when the wreck occurred and December
20 12th when you took the photos?

21 A. Can you define "changed" for me, please.

22 Q. Were any modifications made by Big Sky?

23 A. Not that I'm aware of, no.

24 Q. Any maintenance done on that transition
25 by Big Sky during that time?

1 A. No.

2 Q. And is Highway a groomed trail?

3 A. No.

4 Q. And is there a reason that it's not
5 groomed?

6 A. Highway's an off-pieced trail, and we
7 choose not to groom many different expert trails.

8 Q. I'm going to hand you what's been marked
9 as Exhibit 76, and you said you were present at
10 Bob Dixon's deposition, correct?

11 A. I was.

12 Q. And do you recall during that deposition
13 when I had had Mr. Dixon mark an area of Highway
14 that appeared to go into that bowl that we
15 discussed earlier?

16 A. I vaguely recall that deposition.

17 Q. Okay. And is that bowl area marked on
18 76?

19 A. Yes.

20 Q. Okay. And would you agree that the part
21 that is circled on Exhibit 76, the part of the
22 mountain is a change in elevation from coming --
23 from Highway?

24 A. Again, by definition it's downhill so
25 it's a change in elevation.

1 Q. And if you were skiing that Highway into
2 the area that is circled there, how do you
3 transition out of that bowl on the mountain?

4 MR. MCINTOSH: Objection to the
5 characterization. Go ahead.

6 THE WITNESS: I'm not following your
7 question, I'm sorry.

8 Q. (By Ms. Walas) Okay. If a skier is
9 coming down Highway and goes through the area that
10 is circled on 76 --

11 A. Um-hum.

12 Q. -- do they have to go back uphill to get
13 to the Loop Road?

14 A. I don't believe so, no.

15 Q. Okay. I'm going to hand you what's been
16 previously marked as Exhibit 13, and are you
17 familiar with this photo?

18 A. I believe so, yes.

19 Q. Do you know when it was taken?

20 A. I believe this was also a picture that I
21 took the following morning.

22 Q. Okay. And where were you standing when
23 you took this photo?

24 A. This is on Lower Morning Star Road,
25 skiers leftish of Lower Morning Star itself above

1 the Bermuda Triangle and just prior to reaching the
2 bottom of Highway Trail.

3 Q. Okay. And looking at Exhibit 13 on the
4 left side of the photo, there -- is there what
5 appears to be a kind of a lip on this left side
6 here?

7 A. Can you be more specific? I do not see
8 anything I would characterize as a lip.

9 Q. Okay. Comparing it to -- I believe you
10 have it, 76. There, the area that is circled,
11 comparing 76 to 13, can you see the area that Bob
12 circled in Exhibit 13?

13 A. From a different angle, yes.

14 Q. Okay. And I'm going to hand you what
15 I'll mark as Exhibit 85.

16 (Whereupon, Deposition Exhibit No. 85
17 was marked for identification.)

18 Q. (By Ms. Walas) And is this the same
19 photo as Exhibit 13?

20 A. It appears to be.

21 Q. Okay. And taking that orange marker,
22 can you circle or mark the area that is the
23 different angle of what was circled in 76?

24 A. Again, I'm really trying to follow your
25 question, and I need a little more clarity on it.

1 What is it you are asking me to mark?

2 Q. I believe you said Exhibit 13, which is
3 a duplicate of 87, showed a different angle from
4 this area, from 76?

5 A. I meant that it's taken from a different
6 angle or perspective.

7 Q. Okay. So can you see the part that was
8 circled in 76 in Exhibit 13?

9 A. Yes.

10 Q. Okay. Now, can you mark the area that
11 you can see in 76 in 85.

12 A. Mark generally that area. (Witness
13 complied.)

14 Q. Okay. Let me see this a moment. Okay.
15 And so the area that you've just circled in orange,
16 is that the area where you come out of the circled
17 area in 76?

18 MR. MCINTOSH: Objection. Vague,
19 speculation.

20 THE WITNESS: Generally speaking I would say
21 yes.

22 Q. (By Ms. Walas) Okay. And can you tell
23 me again where you were standing when you took that
24 photo in 85?

25 A. Skiing, standing above the skier's left

1 side of Highway, above the Bermuda Triangle, and
2 just prior to reaching skier's right side of
3 Highway.

4 Q. And is it your understanding that that
5 is the area, general area where this ski wreck
6 occurred?

7 A. This is quite a ways away, from my
8 understanding, of Mr. Meyer's incident and point of
9 rest.

10 Q. Okay. On 85 can you see where
11 Mr. Meyer's point of rest is?

12 A. Generally speaking I believe so, yes.

13 Q. Can you mark that with an X?

14 A. (Witness complied.) It's actually -- so
15 long as we are saying the intersection of my two
16 lines.

17 Q. Okay.

18 A. Yes.

19 Q. I believe you said the beginning of your
20 deposition that you reviewed the incident reports
21 that were produced in this case in response to the
22 30(b) (6) Notice; is that correct?

23 A. Yes.

24 Q. Okay. And is Big Sky aware of other ski
25 or snowboarding wrecks that have occurred in the

1 areas where John Meyer's accident took place?

2 MR. MCINTOSH: Objection. Vague as to time.

3 THE WITNESS: Can you restate your question,
4 please.

5 Q. (By Ms. Walas) Does Big Sky know of any
6 other ski wrecks in the area where John Meyer's
7 wreck took place?

8 A. I'm aware of the ones which we produced.

9 Q. Okay. And I have what I'll mark as
10 Exhibit 86.

11 (Whereupon, Deposition Exhibit No. 86
12 was marked for identification.)

13 Q. (By Ms. Walas) And looking at that, is
14 that one of the incident reports that you have
15 reviewed?

16 MR. MCINTOSH: Objection. Beyond the scope
17 of the deposition notice.

18 THE WITNESS: Can you restate your question
19 now after I've looked at this?

20 Q. (By Ms. Walas) Have you seen this
21 incident report before today?

22 A. I believe so, yes.

23 Q. And did you review it in preparation for
24 your deposition?

25 A. I believe so.

1 Q. And on the incident report it notes that
2 the wreck took place on the bottom of Highway and
3 fell to Morning Star Road; is that correct?

4 MR. MCINTOSH: Objection. Beyond the scope.

5 THE WITNESS: That is what it says.

6 Q. (By Ms. Walas) Okay. And is the
7 transition from Highway to Morning Star Road, is
8 that a change in the level of the skier level to --
9 strike that.

10 What is the identification of Highway
11 with respect to skier level?

12 A. It's a black diamond trail.

13 Q. Okay. And -- what's the level for
14 Morning Star Road?

15 A. It's a green circle.

16 Q. And so when Highway crosses over Morning
17 Star Road is that a transition from a black to a
18 green?

19 A. By trail designation, yes.

20 Q. Okay. Now, have you ever heard of that
21 transition from Highway to Loop Road being referred
22 to as a knuckle?

23 A. I believe we produced one incident that
24 does have the word "knuckle" in it.

25 Q. And do you know what that knuckle

1 references?

2 A. I do not.

3 Q. Okay. I have what I'll marked as 87.

4 (Whereupon, Deposition Exhibit No. 87
5 was marked for identification.)

6 Q. (By Ms. Walas) And have you had a
7 chance to take a look at that?

8 A. I've seen this one, yes.

9 Q. Okay. And what's the date of that
10 incident report, Deposition 87?

11 A. 3-6-11.

12 Q. And that was before Mr. Meyer's ski
13 wreck, correct?

14 A. Yes.

15 Q. And do you know where on the mountain
16 this wreck took place?

17 MR. MCINTOSH: Objection. Beyond the scope
18 of the deposition.

19 THE WITNESS: Description of specific
20 locations lists Bermuda Triangle; however, the
21 description of the incident says, "Followed my
22 son -- followed my son and something backwards
23 couple feet downhill, fell backwards."

24 So this could have been the short answer
25 is -- I'm reading the document as you are, it says

1 it happened in the Bermuda Triangle, and it sounds
2 like someone ended up losing control and perhaps
3 skiing slash falling backwards.

4 Q. (By Ms. Walas) Okay. And did
5 Mr. Meyer's ski wreck occur in the Bermuda Triangle
6 area?

7 A. His point of rest was the Bermuda
8 Triangle. It's my understanding he is unable to
9 tell us where he wrecked. Mr. McMacken has
10 testified that he was hotdogging and appeared to be
11 trying to jump off of lower Morning Star Road.

12 Q. Okay. And based on this incident report
13 Big Sky was aware of a wreck that had occurred in
14 the Bermuda Triangle prior to Mr. Meyer's incident,
15 correct?

16 MR. MCINTOSH: Objection, beyond the scope of
17 the deposition.

18 THE WITNESS: Can you restate your question
19 for me, please.

20 Q. (By Ms. Walas) Big Sky was aware that a
21 ski wreck had occurred in the Bermuda Triangle
22 prior to Mr. Meyer's wreck?

23 MR. MCINTOSH: Objection. Beyond the scope
24 of the deposition.

25 THE WITNESS: On 3-6-11 this incident

1 statement says that someone -- looks like "skied
2 backwards a couple of feet downhill and fell
3 backwards in the Bermuda Triangle."

4 Q. (By Ms. Walas) And this wreck occurred
5 on March 6, 2011, correct?

6 MR. MCINTOSH: Objection. Beyond the scope
7 of the deposition.

8 THE WITNESS: The date of the incident is
9 3-6-11.

10 Q. (By Ms. Walas) Okay. And would that
11 fall in the 2011 to 2012 ski season?

12 A. Yes.

13 Q. And you said that you were prepared to
14 talk about Topic 6 on Deposition 79?

15 A. I did.

16 Q. And would the 2011 to 2012 ski season
17 fall within that scope of that topic?

18 A. Yes.

19 Q. Okay. So going back, the March 6, 2011
20 incident report is a ski wreck that occurred prior
21 to Mr. Meyer's wreck?

22 MR. MCINTOSH: Objection, misstates the
23 evidence, and it's beyond the scope of the
24 deposition notice.

25 THE WITNESS: This incident happened on

1 3-6-11.

2 Q. (By Ms. Walas) Okay. In the Bermuda
3 Triangle area --

4 MR. McINTOSH: Objection.

5 Q. (By Ms. Walas) -- which is within the
6 Highway Loop Road and Lower Morning Star of the
7 mountain?

8 MR. McINTOSH: Objection. Mistakes the
9 evidence and is beyond the scope of the deposition
10 notice.

11 THE WITNESS: Can you restate your question,
12 please.

13 Q. (By Ms. Walas) Is the Bermuda Triangle
14 located in the area of the mountain near
15 Highway/Loop Road and Lower Morning section?

16 A. The Bermuda Triangle is a large area
17 located within that description that you just said.

18 Q. Okay. And you were prepared today to
19 talk about prior ski accidents in that section of
20 the mountain which took place in 2011 to 2012?

21 A. Correct.

22 MR. McINTOSH: Objection. Vague as to time.

23 When you get a chance can we take a restroom
24 break?

25 MS. WALAS: Sure. We can take it now if you

1 want.

2 MR. MCINTOSH: That's fine. Thank you.

3 VIDEOGRAPHER: We'll go off the record. The
4 time is 9:51.

5 (Whereupon, a recess was had from 9:51 a.m.
6 until 9:59 a.m.)

7 VIDEOGRAPHER: Okay. We're back on the
8 record. The time is 9:59.

9 THE WITNESS: Ms. Walas, if I may, I did not
10 answer correctly. You asked me about an incident
11 that occurred 3-6-11, and you asked me if that was
12 part of the '11-'12 ski season.

13 Q. (By Ms. Walas) Okay.

14 A. And I misspoke; '10-'11 would have been
15 the ski season that this occurred in.

16 Q. Okay.

17 (Whereupon, Deposition Exhibit No. 88
18 was marked for identification.)

19 Q. (By Ms. Walas) Have what I've marked as
20 88. And is this a Big Sky incident report?

21 A. Yes.

22 Q. And have you seen this report before?

23 A. Yes.

24 Q. And what's the date of this report?

25 A. 3-20-2015.

1 Q. What ski season does that fall in?

2 A. That would be the '14-'15 ski season.

3 Q. Okay. And where on the mountain did
4 this incident take place?

5 MR. McINTOSH: Objection, vague.

6 THE WITNESS: Description of specific
7 location listed as Morning Star Road.

8 Q. (By Ms. Walas) And Morning Star Road is
9 in the area where Mr. Meyer's ski wreck occurred?

10 MR. McINTOSH: Objection. Mistakes the
11 evidence.

12 THE WITNESS: I would not characterize that.
13 I would say that Morning Star Road is many hundreds
14 of yards long, and this does not clearly state
15 where on that road the incident occurred.

16 Q. (By Ms. Walas) Do we know or does Big
17 Sky know where this incident occurred on Morning
18 Star Road?

19 A. It is not indicated on there and we do
20 not know.

21 Q. And do you know how the wreck referenced
22 on March 20, 2015, came about?

23 A. The description of the incident states,
24 "Tried to stop quickly, put right hand out to catch
25 her fall."

1 Q. And have you reviewed Mr. -- the Big
2 Sky's incident report for Mr. Meyer's wreck?

3 A. I have.

4 Q. And the incident reports that we have
5 been talking about today, are those something that
6 Big Sky regularly prepares?

7 A. Can you state your question again.

8 Q. The incident reports that we have just
9 been discussing during your deposition, does Big
10 Sky regularly prepare those?

11 A. Yes.

12 Q. Okay. And is there a policy that says
13 you have to prepare those?

14 MR. MCINTOSH: Objection. Vague.

15 Q. (By Ms. Walas) Does Big Sky have a
16 policy that requires the preparation of incident
17 reports after a wreck?

18 A. Big Sky patrollers will fill out similar
19 incident cards when they have patient contact.

20 Q. Okay. And are there any written rules
21 that ski patrollers are supposed to follow in the
22 performance of their job?

23 A. Yes.

24 Q. And are you aware of a manual that Big
25 Sky has to assist ski patrollers in performing

1 their job?

2 A. I am.

3 Q. I have what's previously marked as 78.
4 I'm just going to paperclip it together since it's
5 not stapled, and you can use it as you need.

6 Are you familiar with this document?

7 A. I am.

8 Q. Okay. And can you identify it for the
9 record?

10 A. Big Sky Ski Resort Professional Ski
11 Patrol Manual, 2015.

12 Q. And what's Big Sky's reason for having
13 this manual?

14 A. It serves as a guideline to our ski
15 patrollers.

16 Q. And does it set the policy for the ski
17 patrollers?

18 A. Again, it serves as a guideline for the
19 patrollers.

20 Q. And was this manual in effect on the
21 date of John Meyer's ski wreck?

22 A. Yes.

23 Q. Okay. And what are the responsibilities
24 of the mountain maintenance supervisor?

25 A. Would you like me to read it?

1 Q. Sure.

2 A. "Mountain maintenance supervisor.

3 Mountain maintenance manager is up to date on
4 company policies, maintains slow signs, hanging
5 signs, build signs, shuttle bamboo to stations, and
6 help out with miscellaneous projects, i.e.,
7 unfinished projects, skier codes, tower and post
8 pads. Period.

9 "The mountain maintenance manager will
10 work in coordination with the hill supervisors to
11 ensure prompt completion of all tasks. Period.
12 They will all encourage quality training sessions.
13 Period. The most important aspect of this job is
14 an eye for detail."

15 Q. And is a mountain maintenance manager
16 the same as supervisor?

17 A. Yes.

18 Q. And why is "an eye for detail" the most
19 important aspect of the job?

20 MR. MCINTOSH: Objection. Foundation.

21 Vague.

22 THE WITNESS: Could you be more specific with
23 your question?

24 Q. (By Ms. Walas) You read that the
25 mountain maintenance supervisor, "the most

1 important aspect of this job is an eye for detail,"
2 correct?

3 A. I did.

4 Q. And so why is an eye for detail the most
5 important aspect of the job?

6 MR. MCINTOSH: Same objections.

7 THE WITNESS: It allows this individual to
8 help the rest of our patrollers be thorough in
9 their jobs.

10 Q. (By Ms. Walas) Is it because the safety
11 of skiers is important to Big Sky?

12 A. That's one of them, yes.

13 Q. And who was the mountain maintenance
14 supervisor on December 11, 2015?

15 A. I have not reviewed that information;
16 I'm sorry, I don't know.

17 Q. Okay. Do you know if this position was
18 filled on the date of Mr. Meyer's ski wreck?

19 A. Again, I'm not prepared -- I don't --
20 for that answer. I don't know for sure.

21 Q. Okay. And do you know what the
22 objective is or what Big Sky's objective is for its
23 ski patrol?

24 A. Can you be more specific with your
25 question? They have many.

1 Q. Okay. Look at page 2 of 76 -- of
2 Deposition Exhibit 76, and at the bottom of that
3 page it references an objective of the Big Sky ski
4 patrol. Do you see where that is in the last --
5 second to last line?

6 A. I do.

7 Q. And can you identify what Big Sky's
8 objective is for its ski patrol from the manual.

9 A. Listed here it says, "The objective of
10 the Big Sky Ski Patrol at the Big Sky Ski Resort
11 area -- or excuse me -- at Big Sky ski area is to
12 provide for the safe operation of facilities at the
13 ski area and provide an exceptional guest
14 experience."

15 That simply means that the overall
16 duties of ski patrol encompass trying to provide a
17 reasonably safe operation in an inherently risky
18 activity of skiing. And it's one that our ski
19 patrol has to work in conjunction and rely upon our
20 guests to also manage their own experience.

21 Q. Are signs something that the Big Sky
22 uses to warn skiers of dangerous areas of the
23 mountain?

24 A. They are.

25 Q. And are those signs consistent with this

1 objective of safety?

2 A. They are.

3 MR. MCINTOSH: Objection, vague.

4 Q. (By Ms. Walas) And do you know if there
5 have been any other policies that Big Sky has had
6 in place before Mr. Meyer's wreck besides this
7 manual?

8 MR. MCINTOSH: Objection. Vague and
9 misstates the evidence.

10 THE WITNESS: Can you be more specific or...

11 Q. (By Ms. Walas) Do you know how long the
12 manual, that 2015 manual, was in place before
13 Mr. Meyer's wreck?

14 A. It would have been in place prior to
15 that season.

16 Q. Okay. Do you know if that manual was
17 the manual being used in the 2014 to '15 ski
18 season?

19 A. Likely and possibly with edits.

20 Q. Okay. And do ski patrollers play a role
21 in maintaining the mountain?

22 A. Can you be more specific with your
23 question?

24 Q. We talked about the mountain maintenance
25 supervisor's role.

1 A. Um-hum.

2 Q. Does the ski patroller, do the ski
3 patrollers do anything to assist the mountain
4 maintenance supervisor in maintaining the mountain?

5 A. They do, yes.

6 Q. What do the ski patrollers do?

7 MR. MCINTOSH: Objection, vague.

8 THE WITNESS: Can you be more specific? They
9 perform many different duties.

10 Q. (By Ms. Walas) What do the ski
11 patrollers do in relation to maintaining the
12 mountain?

13 A. Maintaining the mountain they do a
14 myriad of things to include avalanche mitigation,
15 terrain evaluation, and opening and closing of
16 trails, marking of those trails, et cetera.

17 Q. And on December 11, 2015, do you know if
18 any warning signs were posted in the area that
19 we've been discussing today, Highway, Morning Star
20 Road, warning skiers of any dangerous areas?

21 A. Yes. There have been many pictures
22 produced showing warning signs at the bottom of the
23 lift, the top of the lifts, along Morning Star
24 Road, et cetera.

25 Q. Okay. And look at, I believe it's 13,

1 are there any warning signs posted in that photo?

2 A. There is a sign at the far end of the
3 Lower Morning Star Road, skiers left, bottom of
4 Highway.

5 Q. And looking at 85, are there any warning
6 signs posted in that photo?

7 A. The same sign I described is in this
8 picture as well.

9 Q. Will you -- on 85 will you please put a
10 little square around the sign.

11 A. (Witness complied.)

12 Q. And let's take a look at that. And that
13 sign is after -- is past where Mr. Meyer came to
14 rest, correct?

15 A. It is further along on the cat track.

16 Q. Okay.

17 A. And the skier's left.

18 Q. And looking at 76, are there any warning
19 signs posted in that photo?

20 A. There are no signs there as all of the
21 obstacles and hazards are plainly obvious and
22 visible, therefore, signs are not needed.

23 Q. And looking at 85, can you identify what
24 the warning sign says?

25 A. Not from the picture. It's my

1 recollection from operations that that is a flip
2 sign that opens and closes that road for various
3 reasons at various times.

4 Q. And was that road open on
5 December 11, 2015?

6 A. It was.

7 Q. Okay.

8 MS. WALAS: I'll go ahead and pass the
9 witness now.

10 MR. MCINTOSH: Why don't we take a break.
11 Thank you.

12 VIDEOGRAPHER: We're going off the record.
13 The time is 10:16.

14 (Whereupon, a recess was had from 10:16 a.m.
15 until 10:23 a.m.)

16 VIDEOGRAPHER: And we're back on the record.
17 The time is 10:23.

18 CROSS-EXAMINATION

19 BY MR. MCINTOSH:

20 Q. Mr. Unruh, just a couple quick follow-up
21 questions. Do you have in front of you Exhibit 88?

22 A. I do.

23 Q. And Exhibit 88 is an incident report
24 from incident that occurred on March 20, 2015; is
25 that correct?

1 A. It is.

2 Q. And do you believe that incident
3 occurred in the same area as Mr. Meyer's ski wreck
4 on December 11, 2015?

5 A. I do not.

6 Q. And why do you not believe -- why do you
7 believe that this is a different location?

8 A. Mr. Meyer's point of rest was in the
9 Bermuda Triangle. This states Morning Star Road.
10 Had this incident been in that same area as
11 Mr. Meyer's I would have expected it to reference
12 the Bermuda Triangle and/or the bottom of Highway.

13 As it states "Morning Star Road" I'm
14 inclined to believe that this is farther up on that
15 road somewhere closer to the top of Lower Morning
16 Star Trail itself.

17 Q. That's all the questions I have.

18 MR. MCINTOSH: Thank you.

19 MS. WALAS: I don't have anything further.

20 THE WITNESS: All right. Thanks, everyone.

21 VIDEOGRAPHER: That concludes the deposition.
22 The time is 10:24.

23 MR. MCINTOSH: And he will read and sign as
24 well.

25 (Whereupon, the deposition concluded at 10:25 a.m.)

MIKE UNRUH

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1 DEPONENT'S CERTIFICATE

2 PAGE LINE CORRECTION

3 25 23 early season conditions
4 28 6 off piste

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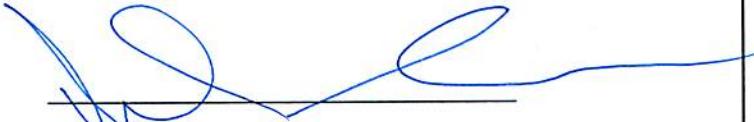
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13

14 I, MIKE UNRUH, the deponent in the foregoing
15 deposition, DO HEREBY CERTIFY, that I have read the
16 foregoing 50 pages of typewritten material and that
17 the same is, with any corrections thereon made in
18 ink on the correction sheet and signed by me, a
19 full, true and correct transcript of my oral
20 deposition given at the time and place hereinbefore
21 mentioned.

22 DATED this 10 day of March, 2020.

23
24
25



MIKE UNRUH

1 C E R T I F I C A T E

2 STATE OF MONTANA)

3) Ss.

4 COUNTY OF GALLATIN)

5 I, Kim Marchwick, Certified Court
6 Reporter and Notary Public, in and for the County
7 of Gallatin, State of Montana, do hereby certify:

8 That the witness in the foregoing
9 deposition was by me first duly sworn to testify
10 the truth, the whole truth, and nothing but the
11 truth in the foregoing cause; that the deposition
12 was then taken before me at the time and place
13 herein named; that the deposition was reported by
14 me in shorthand and later transcribed into
15 typewriting under my direction, and the foregoing
16 pages contain a true record of the testimony of the
17 witness, all done to the best of my skill and
18 ability.

19 IN WITNESS WHEREOF, I have hereunto set
20 my hand and affixed my notarial seal this 27th day
21 of February, 2020.

22 /s/ Kim Marchwick 2.27.2020

23 _____
24 Kim Marchwick, RPR, CRR

Notary Public for the State of Montana

residing at: Bozeman

My commission expires: January 18, 2023